

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington, DC 20554

**September 15, 2010**

**Re: Notice of *Ex Parte* Presentation, ET Docket Nos. 04-186, 02-380; WT Docket Nos. 08-166, 08-167; GN Docket No. 09-157**

Dear Ms. Dortch,

This letter is to advise you, in accordance with Section 1.1206(b) of the Commission's rules, that on September 14, 2010, Chris Riley of Free Press, Michael Calabrese and Benjamin Lennett of the New America Foundation, Harold Feld of Public Knowledge, Andrew Jay Schwartzman of Media Access Project, and Stephen Coran representing the Wireless Internet Service Providers Association ("WISPA") met with Ruth Milkman and Nese Guendelsberger of the Wireless Telecommunications Bureau and Julius Knapp and Geraldine Matisse of the Office of Engineering and Technology. We discussed issues related to the Commission's open proceedings on issues related to the TV White Spaces.

We discussed our individual and shared objectives as these proceedings approach their next stage. We welcome the potential for innovation, investment, economic growth, and consumer benefits that will likely arise from successful conclusion of the White Spaces proceeding. Yet, we remained concerned that specific details of the final rules will limit the ability of unlicensed devices to make effective and efficient use of unused spectrum, and that such limits will substantially limit the resulting economic growth, and consumer benefits, and will delay innovation and investment in advanced wireless devices and networks. Specifically, we identified five areas of concern: sensing-only devices, excessive protections for wireless microphones, variable power and antenna heights, the use of spectrum for wireless backhaul, and issues related to border protection.

On spectrum sensing, we reiterated our long-held and oft-stated position of support for a smooth and rapid transition towards approval of unlicensed devices based solely on spectrum sensing technology. We supported the Commission's database efforts, but encouraged the Commission not to let today's technology delay the development of tomorrow's. On wireless microphones, we expressed our concerns over the possibility that reserving channels of spectrum for exclusive use by wireless microphones, or granting rights to users of wireless microphones to register in the forthcoming White Spaces databases as *de facto* licensed users of spectrum, would greatly limit the amount of spectrum available for unlicensed White Spaces devices, and thus would negatively impact the potential consumer and business benefits that are likely to arise as a result of this proceeding. On variable power and antenna heights, we reiterated statements by WISPA and others that greater flexibility for fixed users of unlicensed White Spaces spectrum would lead to greater incentives to invest and greater returns for businesses and consumers, and we

supported further proceedings on these issues to the extent they are not resolved in the upcoming order. On wireless backhaul, we agree that there is a need for affordable backhaul, particularly in rural areas where competitive choices for backhaul providers is limited. However, other current proceedings on wireless backhaul have not yet been resolved, and premature allocation of scarce White Spaces spectrum for licensed wireless backhaul services could negatively impact the development and deployment of unlicensed White Spaces devices. Finally, we requested that the Commission carefully evaluate issues related to border exclusion zones, and we noted that the Commission should certainly protect users of spectrum along national borders, but should strive to make available as much spectrum as possible for unlicensed devices.

Sincerely,

*/s/ Chris Riley*

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